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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/653,176	09/03/2003	Byeong Yong Lee	7989.011.00-US	3030

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EXAMINER

LEUNG, PHILIP H

ART UNIT PAPER NUMBER

3742

DATE MAILED: 05/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/653,176

Applicant(s)

LEE ET AL.

Examiner

Philip H Leung

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 11-21 is/are withdrawn from consideration.
- 5) ☒ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Admitted Prior Art as shown in Figure 2 (hereinafter, APA), in view of Devlin (US 5,126,536) (newly cited) and further in view of Wanat et al (US 5,802,957) or Hardin et al (US 6,123,012) (both are previously cited).

The Admitted Prior Art as shown in Figure 2 and discussed in paragraphs [0008]-[0014] shows a microwave oven with a toaster including "a control panel 26 in an upper part of front surface of the cavity door 24, provided with a first selection part 26a for selecting functions of the microwave oven, and a second selection part 26b for selecting a toaster function, and a display part 26c for displaying an operation state for a key input at the first selection part 26a or the second selection part 26b". Therefore APA carries out "a function of a signal received from the first or second selection part 26a or 26b of the control panel 26, for toasting the bread according to a kind of bread and a level of bread toasting the user selected". Therefore APA shows every feature as claimed except that it does not explicitly show that the level is a voltage level for the resistance heater of the toaster and except for the use of a temperature sensor for controlling the time of toasting according to the inside temperature of the toaster chamber.

Devlin shows that it is well known in the art of electrical toasters to set the degree of toasting by

Art Unit: 3742

adjusting the voltage level of the resistance heaters (see Figures 1-4, col. 6, line 27 – col. 7, line 2 and col. 9, lines 37-52). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify APA to set voltage level of the resistance heaters of the toaster to adjust the toasting level of the bread according to the user's preference, in view of the teaching of Devlin. Furthermore, Wanat shows that it is well known in art of toasters to use a thermal sensor (76) positioned at the toaster chamber 30 to adjust the length of the toasting cycle to compensate the varying temperature in the toasting chamber with the use of a processor unit 70 (see Figures 3 and 4, col. 2, line 54 – col. 3, line 20 and col. 6, line 37 – col. 7, line 20). Hardin also shows that it is well known in the art of toasters that the toasting time is a function of line voltage, the darkness control setting, the food select setting, the warm setting and the frozen setting and the temperature of the toaster chamber wherein the temperature is sensed with the use of a temperature detector 81 in the toaster cavity 22 (see Figures 3 and 8 and col. 7, line 38 – col. 8, line 39). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify APA combined with Devlin to position a thermal sensor in the toaster chamber to monitor the temperature of the toaster chamber to adjust the time period of a toasting cycle for better heating control to achieve a better toasted product, in view of Wanat or Hardin.

3. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3742

4. Attention is drawn to a copending application Serial No. 10/474,999 that are drawn to a similar claimed invention; it is respectfully reminded that a line of demarcation must be maintained between the copending application and this application and its divisional application Serial No. 10/981,574, which includes all the non-elected claims 11-21. Therefore. The withdrawn claims 11-21 in this application need to be cancelled.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 3742

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip H Leung whose telephone number is (571) 272-4782.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on (571) 472-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Philip H Leung
Primary Examiner
Art Unit 3742

P.Leung/pl
5-2-2005